

REMARKS

I. STATUS OF THE CLAIMS

Claims 53-67 and 83-99 are pending in this Application.

Applicants wish to thank the Examiner for withdrawing the Section 112, second paragraph rejection and the Section 103 rejection of claims 53-67 and 83-99 over U.S. Patent No. 6,339,189 in view of U.S. Patent No. 6,162,548.

II. REJECTIONS UNDER 35 U.S.C. § 102(e)

The Examiner has rejected claims 53-67 and 83-99 under 35 U.S.C. § 102(e) as anticipated by U.S. Patent Application No. US 2002/0088642 A1 to Caimi ("*Caimi*") for the reasons disclosed at pages 2-3 of the present Office Action. Applicants respectfully traverse this rejection for at least the reasons presented below.

A rejection under Section 102 is proper only when the claimed subject matter is identically described or disclosed in the prior art. *In re Arkley*, 455 F.2d 586, 587 (C.C.P.A. 1972). "For anticipation under 35 U.S.C. § 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly." M.P.E.P. § 706.02. The identical invention must be described in as complete detail as is contained in, and must be arranged as required by, the claim. M.P.E.P. § 2131. Indeed, in order to anticipate the claimed invention, a reference must "clearly and unequivocally disclose the claimed compound or direct those skilled in the art to the compound without any need for picking, choosing and combining various disclosures." *In re Arkley*, 455 F.2d at 587. Importantly, the absence of a single element or limitation indicates the reference neither describes nor anticipates the claim. M.P.E.P. § 2131.

In the present case, Applicants submit that *Caimi* fails to teach each of the limitations recited in Applicants' rejected claims. Specifically, *Caimi* fails to disclose,

expressly or inherently, "wherein said first inner layer does not comprise an effective amount of a fire retardant agent." The Examiner broadly asserts, however, that the "Caimi reference does not use a fire retardant in the inner layer." Office Action at page 3. In so doing, the Examiner refers to claim 3 of *Caimi*, which discloses, *inter alia*, that its inner layer comprises "a polymer matrix, an inorganic charge dispersed in this matrix and a predetermined amount of coupling agent. . . ." *Caimi* at page 8. Applicants respectfully disagree with the Examiner in view of the claim language and the specification, which defines *Caimi*'s claim 3.

First, *Caimi*'s claim 3 depends from claim 1. Claim 1 expressly states that "the inner layer is constructed [to] . . . substantially contribut[e] to the overall fire-resistance properties of the cable." Paragraph 15 of *Caimi* expressly defines this phrase to mean "although the fire-resistant properties are mainly imparted by the outer layer, nevertheless the inner layer is also endowed with substantial fire-resistance properties, differently from the known waterproof coating layers having no such characteristics." It is important to note that nothing in claim 3 removes this limitation imparted by claim 1. Thus, *Caimi*'s claim 3 requires that the inner layer "substantially contribute" to fire-resistance.

Second, *Caimi*'s claim 3 recites that the inner layer comprises "an inorganic charge disclosed in this matrix." As explained in paragraphs 34-35 of *Caimi*, this inorganic charge provides further fire resistant properties.

Moreover, *Caimi* distinguishes its invention from art that lacks an inner layer of conductive properties by actually teaching away from art comprising cables coated with an inner layer that does not possess fire-resistant properties. For instance, *Caimi* draws distinctions between its teachings and those of GB 2,294,801 at paragraph 12.

GB 2,294,801 is drawn to a fire- and moisture-resistant electric cable comprising a conductive wire encased by an inner sheath of moisture proof material and an outer layer of fire retardant material. *Id.* *Caimi*, commenting on this patent, states:

[h]owever, no mention is made about the fire retardant properties of the said inner layer. As a matter of fact, the presence of the inner layer consisting essentially of a polyolefynic [sic] material would substantially reduce the overall fire resistance properties of the cable's sheath.

Id.

Since *Caimi* does not provide for the existence of a cable comprising, among other things, an inner layer that does not comprise an effective amount of a fire retardant agent, *Caimi* clearly does not teach every aspect of the claimed invention either explicitly or impliedly, as required by 35 U.S.C. § 102(e). Applicants therefore respectfully request that the Examiner withdraw the § 102(e) rejection of claims 53-67 and 83-99, which are allowable over *Caimi*.

III. CONCLUSION

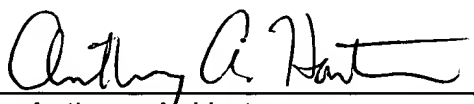
In view of the foregoing remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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